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May 18, 2012

Via Facsimile and ECF

Honorable Sandra L. Townes  
United States District Judge  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Guerra, et al.,  
10 Cr. 147 (SLT)

Dear Judge Townes:

On behalf of all defendants, we submit the following request with regard to scheduling. Specifically, it is requested that the parties not be required to appear on May 23, 2012 and May 24, 2012 when potential jurors come to the Courthouse to complete the jury questionnaire. The government does not oppose this application.

Recently in United States v. Gioeli, 08 Cr. 340 (BMC), an anonymous jury was empanelled and a jury questionnaire was employed. On the day the questionnaire was distributed, the parties were not required to appear. Similarly, in United States v. John A. Burke, 09 Cr. 135(SJ), where an anonymous jury was selected and questionnaire was used, Judge Johnson did not require the parties to appear, but rather made it optional.

As Your Honor is aware, this case involves a colossal amount of discovery, which continues to arrive. The charges span two decades during which time the government has amassed thousands of hours of recordings and tens of thousands of documents. Thus far, the Government has turned over 3500 material for only a few witnesses and it is in excess of 10,000 pages and includes hundreds of additional recordings. Given the complexity of the case, all parties are working over-time in an effort to be prepared. This includes the defendants who do not have access to the 3500 material without the assistance of counsel. As Mr. Guerra and Mr. Persico are in custody, if they are required to appear in Court for the two minutes it will take for potential jurors to view them, they will lose two entire days of trial preparation. As they are both facing life sentences, denying them the ability to prepare for trial is, without question, an injustice. Likewise, all counsel will be disrupted and preparations will cease for a significant portion of those days.

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For all of these reasons, the defendants request that the Court follow the practice used in the cases cited above and not require counsel and the defendants to appear when the jury questionnaire is distributed.

Respectfully,

***Elizabeth E. Macedonio***

Elizabeth E. Macedonio  
Counsel for the Defendant  
*Theodore N. Persico, Jr.*

All Parties - Via ECF